

# COMMITTEE REPORT

---

## MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 12, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 criminal law and procedure.
- 4 Delete everything after the enacting clause and insert the
- 5 following:
- 6 SECTION 1. IC 5-2-6-1 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this
- 8 chapter:
- 9 "Criminal justice" includes activities concerning:
- 10 (1) the prevention or reduction of criminal offenses;
- 11 (2) the enforcement of criminal law;
- 12 (3) the apprehension, prosecution, and defense of persons
- 13 accused of crimes;
- 14 (4) the disposition of convicted persons, including corrections,
- 15 rehabilitation, probation, and parole; and
- 16 (5) the participation of members of the community in corrections.
- 17 "Entitlement jurisdictions" include the state and certain local
- 18 governmental units as defined in Section 402(a) of the Omnibus Act.
- 19 "Institute" means the Indiana criminal justice institute.
- 20 "Juvenile justice" includes activities concerning:
- 21 (1) the prevention or reduction of juvenile delinquency;
- 22 (2) the apprehension and adjudication of juvenile offenders;
- 23 (3) the disposition of juvenile offenders including protective
- 24 techniques and practices;
- 25 (4) the prevention of child abuse and neglect; and
- 26 (5) the discovery, protection, and disposition of children in need
- 27 of services.

"Juvenile Justice Act" means the Juvenile Justice and Delinquency Prevention Act of 1974 and any amendments made to that act.

"Local governmental entities" include:

- (1) trial courts; and
- (2) political subdivisions (as defined in IC 36-1-2-13).

~~"Offender" has the meaning set forth in IC 5-2-12-4.~~

"Omnibus Act" means the Omnibus Crime Control and Safe Streets Act of 1968 and any amendments made to that act.

"Trustees" refers to the board of trustees of the institute.

SECTION 2. IC 5-2-6-3, AS AMENDED BY P.L.192-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The institute is established to do the following:

- (1) Evaluate state and local programs associated with:
  - (A) the prevention, detection, and solution of criminal offenses;
  - (B) law enforcement; and
  - (C) the administration of criminal and juvenile justice.
- (2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.
- (3) Stimulate criminal and juvenile justice research.
- (4) Develop new methods for the prevention and reduction of crime.
- (5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.
- (6) Administer victim and witness assistance funds.
- (7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.
- (8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.
- (9) Serve as the criminal justice statistical analysis center for this state.
- ~~(10) Establish and maintain, in cooperation with the office of the secretary of family and social services, a sex and violent offender directory.~~
- (10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex offender registration under IC 11-8-8.**
- (11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.
- ~~(12) Prescribe or approve forms as required under IC 5-2-12.~~
- ~~(13) Provide judges, law enforcement officers, prosecuting attorneys, parole officers, and probation officers with information and training concerning the requirements in IC 5-2-12 and the use of the sex and violent offender directory.~~
- ~~(14)~~ **(12)** Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

SECTION 3. IC 5-2-6-14, AS AMENDED BY P.L.64-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2006]: Sec. 14. (a) The victim and witness assistance fund is established. The institute shall administer the fund. Except as provided in subsection (e), expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The source of the victim and witness assistance fund is the family violence and victim assistance fund established by IC 12-18-5-2.

(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:

(1) help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;

(2) provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or

(3) provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.

(d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.

(e) The institute may use money in the fund to:

(1) pay the costs of administering the fund, including expenditures for personnel and data;

(2) ~~establish and maintain support the Indiana sex and violent offender directory registry under IC 5-2-12; IC 11-8-8;~~

(3) provide training for persons to assist victims; and

(4) establish and maintain a victim notification system under IC 11-8-7 if the department of correction establishes the system.

SECTION 4. IC 10-13-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) As used in this chapter, "criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals.

(b) The term consists of the following:

(1) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.

(2) Information regarding a sex ~~and violent~~ offender (as defined in ~~IC 5-2-12-4~~) **IC 11-8-8-4**) obtained through sex ~~and violent~~ offender registration under ~~IC 5-2-12; IC 11-8-8.~~

(3) Any disposition, including sentencing, and correctional system intake, transfer, and release.

SECTION 5. IC 10-13-3-27, AS AMENDED BY P.L.234-2005 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) Except as provided in subsection (b), on request, ~~a law enforcement agencies agency~~ shall release ~~or allow inspection of~~ a limited criminal history to ~~or allow inspection of a limited criminal history by~~ noncriminal justice organizations or individuals only if the subject of the request:

(1) has applied for employment with a noncriminal justice

organization or individual;

(2) has applied for a license and **has provided** criminal history data as required by law to be provided in connection with the license;

(3) is a candidate for public office or a public official;

(4) is in the process of being apprehended by a law enforcement agency;

(5) is placed under arrest for the alleged commission of a crime;

(6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;

(7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;

(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;

(9) is currently residing in a location designated by the department of child services (established by IC 31-33-1.5-2) or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location;

(10) has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;

(11) is being investigated for welfare fraud by an investigator of the division of family resources or a county office of family and children;

(12) is being sought by the parent locator service of the child support bureau of the division of family and children;

(13) is or was required to register as a sex ~~and violent~~ offender under ~~IC 5-2-12~~; **IC 11-8-8**; or

(14) has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Possession of child pornography (IC 35-42-4-4(c)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

(G) Child solicitation (IC 35-42-4-6).

(H) Child seduction (IC 35-42-4-7).

(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited

1 criminal history by and release a limited criminal history to the  
 2 following noncriminal justice organizations:

- 3 (1) Federally chartered or insured banking institutions.
- 4 (2) Officials of state and local government for any of the  
 5 following purposes:
  - 6 (A) Employment with a state or local governmental entity.
  - 7 (B) Licensing.
- 8 (3) Segments of the securities industry identified under 15 U.S.C.  
 9 78q(f)(2).

10 (c) Any person who uses limited criminal history for any purpose  
 11 not specified under this section commits a Class A misdemeanor.

12 SECTION 6. IC 10-13-3-30 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 30. (a) Except as  
 14 provided in subsection (c), on request for release or inspection of a  
 15 limited criminal history, law enforcement agencies may, if the agency  
 16 has complied with the reporting requirements in section 24 of this  
 17 chapter, and the department shall do the following:

- 18 (1) Require a form, provided by law enforcement agencies and  
 19 the department, to be completed. The form shall be maintained  
 20 for two (2) years and shall be available to the record subject upon  
 21 request.
- 22 (2) Collect a three dollar (\$3) fee to defray the cost of processing  
 23 a request for inspection.
- 24 (3) Collect a seven dollar (\$7) fee to defray the cost of  
 25 processing a request for release. However, law enforcement  
 26 agencies and the department may not charge the fee for requests  
 27 received from the parent locator service of the child support  
 28 bureau of the division of family and children.

29 (b) Law enforcement agencies and the department shall edit  
 30 information so that the only information released or inspected is  
 31 information that:

- 32 (1) has been requested; and
- 33 (2) is limited criminal history information.

34 (c) The fee required under subsection (a) shall be waived if the  
 35 request relates to the **Indiana sex and violent offender directory**  
 36 **registry** under ~~IC 5-2-6~~ **IC 11-8-8** or concerns a person required to  
 37 register as a sex ~~and violent~~ offender under ~~IC 5-2-12~~ **IC 11-8-8**.

38 SECTION 7. IC 10-13-4-4 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. As used in this  
 40 chapter, "juvenile history data" means information collected by criminal  
 41 or juvenile justice agencies or individuals about a child who is alleged  
 42 to have committed a reportable act and consists of the following:

- 43 (1) Descriptions and notations of events leading to the taking of  
 44 the child into custody by a juvenile justice agency for a  
 45 reportable act allegedly committed by the child.
- 46 (2) A petition alleging that the child is a delinquent child.
- 47 (3) Dispositional decrees concerning the child that are entered  
 48 under IC 31-37-19 (or IC 31-6-4-15.9 before its repeal).
- 49 (4) The findings of a court determined after a hearing is held  
 50 under IC 31-37-20-2 or IC 31-37-20-3 (or IC 31-6-4-19(h) or  
 51 IC 31-6-4-19(i) before their repeal) concerning the child.

(5) Information:

(A) regarding a child who has been adjudicated a delinquent child for committing an act that would be an offense described in ~~IC 5-2-12-4~~ **IC 11-8-8-4** if committed by an adult; and

(B) that is obtained through sex ~~and violent~~ offender registration under ~~IC 5-2-12~~ **IC 11-8-8**.

SECTION 8. IC 11-8-2-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 12. The department shall do the following:**

**(1) Maintain the Indiana sex offender registry established under IC 36-2-13-5.5.**

**(2) Prescribe and approve a format for sex offender registration as required by IC 11-8-8.**

**(3) Provide:**

**(A) judges;**

**(B) law enforcement officials;**

**(C) prosecuting attorneys;**

**(D) parole officers;**

**(E) probation officers; and**

**(F) community corrections officials;**

**with information and training concerning the requirements of IC 11-8-8 and the use of the Indiana sex offender registry.**

**(4) Upon request of a neighborhood association:**

**(A) transmit to the neighborhood association information concerning sex offenders who reside near the location of the neighborhood association; or**

**(B) provide instructional material concerning the use of the Indiana sex offender registry to the neighborhood association.**

SECTION 9. IC 11-8-2-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 13. (a) The Indiana sex offender registry established under IC 36-2-13-5.5 and maintained by the department under section 12 of this chapter must include the names of each offender who is or has been required to register under IC 11-8-8.**

**(b) The department shall do the following:**

**(1) Ensure that the Indiana sex offender registry is updated at least once per day with information provided by a local law enforcement authority (as defined in IC 11-8-8-2).**

**(2) Publish the Indiana sex offender registry on the Internet through the computer gateway administered by the office of technology established by IC 4-13.1-2-1, and ensure that the Indiana sex offender registry displays the following or similar words:**

**"Based on information submitted to law enforcement, a person whose name appears in this registry has been convicted of a sex offense or has been adjudicated a delinquent child for an act that would be a sex offense if**

1 committed by an adult."

2 SECTION 10. IC 11-8-5-2 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The department  
4 may, under IC 4-22-2, classify as confidential the following personal  
5 information maintained on a person who has been committed to the  
6 department or who has received correctional services from the  
7 department:

8 (1) Medical, psychiatric, or psychological data or opinion which  
9 might adversely affect that person's emotional well-being.

10 (2) Information relating to a pending investigation of alleged  
11 criminal activity or other misconduct.

12 (3) Information which, if disclosed, might result in physical harm  
13 to that person or other persons.

14 (4) Sources of information obtained only upon a promise of  
15 confidentiality.

16 (5) Information required by law or promulgated rule to be  
17 maintained as confidential.

18 (b) The department may deny the person about whom the  
19 information pertains and other persons access to information classified  
20 as confidential under subsection (a). However, confidential information  
21 shall be disclosed:

22 (1) upon the order of a court;

23 (2) to employees of the department who need the information in  
24 the performance of their lawful duties;

25 (3) to other agencies in accord with IC 4-1-6-2(m) and  
26 IC 4-1-6-8.5;

27 (4) to the governor or the governor's designee;

28 (5) for research purposes in accord with IC 4-1-6-8.6(b);

29 (6) to the department of correction ombudsman bureau in accord  
30 with IC 11-11-1.5; or

31 (7) if the commissioner determines there exists a compelling  
32 public interest as defined in IC 4-1-6-1, for disclosure which  
33 overrides the interest to be served by nondisclosure.

34 (c) The department shall disclose information classified as  
35 confidential under subsection (a)(1) to a physician, psychiatrist, or  
36 psychologist designated in writing by the person about whom the  
37 information pertains.

38 **(d) The department may disclose confidential information to**  
39 **the following:**

40 **(1) A provider of sex offender management, treatment, or**  
41 **programming.**

42 **(2) A provider of mental health services.**

43 **(3) Any other service provider working with the department**  
44 **to assist in the successful return of an offender to the**  
45 **community following the offender's release from**  
46 **incarceration.**

47 SECTION 11. IC 11-8-8 IS ADDED TO THE INDIANA CODE  
48 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
49 JULY 1, 2006]:

50 **Chapter 8. Sex Offender Registration**

51 **Sec. 1. As used in this chapter, "correctional facility" has the**

1 meaning set forth in IC 4-13.5-1-1.

2 Sec. 2. As used in this chapter, "local law enforcement  
3 authority" means the:

- 4 (1) chief of police of a consolidated city; or
- 5 (2) sheriff of a county that does not contain a consolidated  
6 city.

7 Sec. 3. As used in this chapter, "register" means to provide a  
8 local law enforcement authority with the information required  
9 under IC 11-8-8-7.

10 Sec. 4. (a) As used in this chapter, "sex offender" means a  
11 person convicted of any of the following offenses:

- 12 (1) Rape (IC 35-42-4-1).
- 13 (2) Criminal deviate conduct (IC 35-42-4-2).
- 14 (3) Child molesting (IC 35-42-4-3).
- 15 (4) Child exploitation (IC 35-42-4-4(b)).
- 16 (5) Vicarious sexual gratification (IC 35-42-4-5).
- 17 (6) Child solicitation (IC 35-42-4-6).
- 18 (7) Child seduction (IC 35-42-4-7).
- 19 (8) Sexual misconduct with a minor as a Class A, Class B, or  
20 Class C felony (IC 35-42-4-9).
- 21 (9) Incest (IC 35-46-1-3).
- 22 (10) Sexual battery (IC 35-42-4-8).
- 23 (11) Kidnapping (IC 35-42-3-2), if the victim is less than  
24 eighteen (18) years of age.
- 25 (12) Criminal confinement (IC 35-42-3-3), if the victim is less  
26 than eighteen (18) years of age.
- 27 (13) Possession of child pornography (IC 35-42-4-4(c)), if the  
28 person has a prior unrelated conviction for possession of  
29 child pornography (IC 35-42-4-4(c)).
- 30 (14) An attempt or conspiracy to commit a crime listed in  
31 subdivisions (1) through (13).
- 32 (15) A crime under the laws of another jurisdiction, including  
33 a military court, that is substantially equivalent to any of the  
34 offenses listed in subdivisions (1) through (14).

35 (b) The term includes:

- 36 (1) a person who is required to register as a sex offender in  
37 any jurisdiction; and
- 38 (2) a child who has committed a delinquent act and who:
  - 39 (A) is at least fourteen (14) years of age;
  - 40 (B) is on probation, is on parole, is discharged from a  
41 facility by the department of correction, is discharged  
42 from a secure private facility (as defined in  
43 IC 31-9-2-115), or is discharged from a juvenile  
44 detention facility as a result of an adjudication as a  
45 delinquent child for an act that would be an offense  
46 described in subsection (a) if committed by an adult; and
  - 47 (C) is found by a court by clear and convincing evidence  
48 to be likely to repeat an act that would be an offense  
49 described in subsection (a) if committed by an adult.

50 Sec. 5. As used in this chapter, "sexually violent predator"



means a sex offender convicted of a sex offense:

- (1) in Indiana who has been determined to be a sexually violent predator under IC 35-38-1-7.5; or
- (2) in another jurisdiction who has been found by a court in that jurisdiction to suffer from a mental abnormality or personality disorder that makes the individual likely to repeatedly engage in any of the offenses described in section 4 of this chapter.

Sec. 6. (a) Subject to section 14 of this chapter, the following persons must register under this chapter:

(1) A sex offender who resides in Indiana. A sex offender resides in Indiana if either of the following applies:

(A) The sex offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The sex offender owns real property in Indiana and returns to Indiana at any time.

(2) A sex offender not described in subdivision (1) who works or carries on a vocation or intends to work or carry on a vocation full time or part time for a period:

(A) exceeding fourteen (14) consecutive days; or

(B) for a total period exceeding thirty (30) days;

during any calendar year in Indiana, whether the sex offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) A sex offender not described in subdivision (1) who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), a sex offender who resides in Indiana shall register with the local law enforcement authority in the county where the sex offender resides. If a sex offender resides in more than one (1) county, the sex offender shall register with the local law enforcement authority of each county in which the sex offender resides.

(c) A sex offender described in subsection (a)(2) shall register with the local law enforcement authority of the county where the sex offender is or intends to be employed or carry on a vocation. If a sex offender is or intends to be employed or carry on a vocation in more than one (1) county, the sex offender shall register with the local law enforcement authority of each county.

(d) A sex offender described in subsection (a)(3) shall register with the local law enforcement authority of the county where the sex offender is enrolled or intends to be enrolled as a student.

(e) A sex offender described in subsection (a)(1)(B) shall register with the local law enforcement authority in the county in which the real property is located.

(f) A sex offender committed to the department shall register with the department before the sex offender is released from

1 incarceration. The department shall forward the sex offender's  
 2 registration information to the local law enforcement authority of  
 3 every county in which the sex offender is required to register.

4 (g) A sex offender not committed to the department shall  
 5 register not more than seven (7) days after the sex offender:

6 (1) is released from a penal facility (as defined in  
 7 IC 35-41-1-21);

8 (2) is released from a secure private facility (as defined in  
 9 IC 31-9-2-115);

10 (3) is released from a juvenile detention facility;

11 (4) is transferred to a community transition program;

12 (5) is placed on parole;

13 (6) is placed on probation;

14 (7) is placed on home detention; or

15 (8) arrives at the place where the sex offender is required to  
 16 register under subsection (b), (c), or (d);

17 whichever occurs first.

18 (h) Whenever a sex offender registers with a local law  
 19 enforcement authority, the local law enforcement authority shall  
 20 immediately update the Indiana sex offender registry web site  
 21 established under IC 36-2-13-5.5.

22 (i) The local law enforcement authority with whom a sex  
 23 offender registers under this section shall make and publish a  
 24 photograph of the sex offender on the Indiana sheriffs' sex offender  
 25 registry web site established under IC 36-2-13-5.5. The sheriff of a  
 26 county containing a consolidated city shall provide the police chief  
 27 of a consolidated city with all photographic and computer  
 28 equipment necessary to enable the police chief of the consolidated  
 29 city to transmit sex offender photographs (and other identifying  
 30 information required by IC 36-2-13-5.5) to the Indiana sheriffs' sex  
 31 offender registry web site established under IC 36-2-13-5.5. In  
 32 addition, the sheriff of a county containing a consolidated city shall  
 33 provide all funding for the county's financial obligation for the  
 34 establishment and maintenance of the Indiana sex offender registry  
 35 web site established under IC 36-2-13-5.5.

36 (j) When a sex offender registers, the local law enforcement  
 37 authority shall:

38 (1) immediately update the Indiana sex offender registry web  
 39 site established under IC 36-2-13-5.5; and

40 (2) notify every law enforcement agency having jurisdiction  
 41 in the county where the sex offender resides.

42 The local law enforcement authority shall provide the department  
 43 and a law enforcement agency described in subdivision (2) with the  
 44 information provided by the sex offender during registration.

45 Sec. 7. The registration required under this chapter must  
 46 include the following information:

47 (1) The sex offender's full name, alias, any name by which  
 48 the sex offender was previously known, date of birth, sex,  
 49 race, height, weight, hair color, eye color, Social Security  
 50 number, driver's license number, and home address.

(2) A description of the offense for which the sex offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.

(3) If the person is required to register under section 6(a)(2) or 6(a)(3) of this chapter, the name and address of each of the sex offender's employers in Indiana, the name and address of each campus or location where the sex offender is enrolled in school in Indiana, and the address where the sex offender stays or intends to stay while in Indiana.

(4) A recent photograph of the sex offender.

(5) If the sex offender is a sexually violent predator, that the sex offender is a sexually violent predator.

(6) Any other information required by the department.

**Sec. 8. (a)** Not more than seven (7) days before an Indiana sex offender who is required to register under this chapter is scheduled to be released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

(1) Orally inform the sex offender of the sex offender's duty to register under this chapter and require the sex offender to sign a written statement that the sex offender was orally informed or, if the sex offender refuses to sign the statement, certify that the sex offender was orally informed of the duty to register.

(2) Deliver a form advising the sex offender of the sex offender's duty to register under this chapter and require the sex offender to sign a written statement that the sex offender received the written notice or, if the sex offender refuses to sign the statement, certify that the sex offender was given the written notice of the duty to register.

(3) Obtain the address where the sex offender expects to reside after the sex offender's release.

(4) Transmit to the local law enforcement authority in the county where the sex offender expects to reside of the sex offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the sex offender.

**(b)** Not more than three (3) days after a sex offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

(1) The sex offender's fingerprints, photograph, and identification factors.

(2) The address where the sex offender expects to reside after the sex offender's release.

(3) The complete criminal history data (as defined in IC 10-13-3-5) or, if the sex offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the sex offender.

(4) Information regarding the sex offender's past treatment

1 for mental disorders.

2 (5) Information as to whether the sex offender has been  
3 determined to be a sexually violent predator.

4 (c) This subsection applies if a sex offender is placed on  
5 probation or in a community corrections program without  
6 confining the sex offender in a penal facility. The probation office  
7 serving the court in which the sex offender is sentenced shall  
8 perform the duties required under subsections (a) and (b).

9 Sec. 9. Notwithstanding any other law, upon receiving a sex  
10 offender's fingerprints from a correctional facility, the state police  
11 shall immediately send the fingerprints to the Federal Bureau of  
12 Investigation.

13 Sec. 10. (a) If a sex offender who is required to register under  
14 this chapter changes:

15 (1) home address; or

16 (2) if section 6(a)(2) or 6(a)(3) of this chapter applies, the  
17 place where the sex offender stays in Indiana;  
18 the sex offender shall register not more than seventy two (72) hours  
19 after the address change with the local law enforcement authority  
20 with whom the sex offender last registered.

21 (b) If the sex offender moves to a new county in Indiana, the  
22 local law enforcement authority referred to in subsection (a) shall  
23 inform the local law enforcement authority in the new county in  
24 Indiana of the sex offender's residence and forward all relevant  
25 registration information concerning the sex offender to the local  
26 law enforcement authority in the new county. The local law  
27 enforcement authority receiving notice under this subsection shall  
28 verify the address of the sex offender under section 11 of this  
29 chapter within seven (7) days after receiving the notice.

30 (c) If a sex offender who is required to register under section  
31 6(a)(2) or 6(a)(3) of this chapter changes the sex offender's  
32 principal place of employment, principal place of vocation, or  
33 campus or location where the sex offender is enrolled in school, the  
34 sex offender shall register not more than seventy two (72) hours  
35 after the change with the local law enforcement authority with  
36 whom the sex offender last registered.

37 (d) If a sex offender moves the sex offender's place of  
38 employment, vocation, or enrollment to a new county in Indiana,  
39 the local law enforcement authority referred to in subsection (c)  
40 shall inform the local law enforcement authority in the new county  
41 of the sex offender's new principal place of employment, vocation,  
42 or enrollment by forwarding relevant registration information to  
43 the local law enforcement authority in the new county.

44 (e) If a sex offender moves the sex offender's residence, place  
45 of employment, or enrollment to a new state, the local law  
46 enforcement authority shall inform the state police in the new state  
47 of the sex offender's new place of residence, employment, or  
48 enrollment.

49 (f) A local law enforcement authority shall make registration  
50 information, including information concerning the duty to register

1 and the penalty for failing to register, available to a sex offender.  
 2 (g) A local law enforcement authority who is notified of a  
 3 change under subsection (a) or (c) shall immediately update the  
 4 Indiana sex offender registry web site established under  
 5 IC 36-2-13-5.5.

6 **Sec. 11. (a) To verify a sex offender's current residence, the**  
 7 **local law enforcement authority shall do the following:**

8 (1) Mail a reply form to each sex offender in the county at the  
 9 sex offender's listed address at least one (1) time per year,  
 10 beginning seven (7) days after the local law enforcement  
 11 authority receives a notice under section 14 of this chapter or  
 12 the date the sex offender is:

13 (A) released from a penal facility (as defined in  
 14 IC 35-41-1-21), a secure private facility (as defined in  
 15 IC 31-9-2-115), or a juvenile detention facility;  
 16 (B) placed in a community transition program;  
 17 (C) placed in a community corrections program;  
 18 (D) placed on parole; or  
 19 (E) placed on probation;  
 20 whichever occurs first.

21 (2) Mail a reply form to each sex offender who is designated  
 22 a sexually violent predator under IC 35-38-1-7.5 at least once  
 23 every ninety (90) days, beginning seven (7) days after the  
 24 local law enforcement authority receives a notice under  
 25 section 15 of this chapter or the date the sex offender is:

26 (A) released from a penal facility (as defined in  
 27 IC 35-41-1-21), a secure private facility (as defined in  
 28 IC 31-9-2-115), or a juvenile detention facility;  
 29 (B) placed in a community transition program;  
 30 (C) placed in a community corrections program;  
 31 (D) placed on parole; or  
 32 (E) placed on probation;  
 33 whichever occurs first.

34 (b) If a sex offender fails to return a signed reply form either  
 35 by mail or in person, the local law enforcement authority shall  
 36 immediately notify the department and the prosecuting attorney.

37 **Sec. 12. (a) A sex offender who is required to register under**  
 38 **this chapter may not petition for a change of name under**  
 39 **IC 34-28-2.**

40 (b) If a sex offender who is required to register under this  
 41 chapter changes the sex offender's name due to marriage, the sex  
 42 offender must register with the local law enforcement authority not  
 43 more than seven (7) days after the name change.

44 **Sec. 13. A sex offender who knowingly or intentionally fails to**  
 45 **register:**

46 (1) when required to register under this chapter; or  
 47 (2) in every location where the sex offender is required to  
 48 register under this chapter;  
 49 commits a Class D felony. However, the offense is a Class C felony  
 50 if the sex offender has a prior unrelated offense under this section.

1       **Sec. 14. (a) Except as provided in subsections (b) and (c), a sex**  
 2 **offender is required to register under this chapter until the**  
 3 **expiration of ten (10) years after the date the sex offender:**

- 4       (1) is released from a penal facility (as defined in  
 5 IC 35-41-1-21) or a secure juvenile detention facility of a  
 6 state or another jurisdiction;  
 7       (2) is placed in a community transition program;  
 8       (3) is placed in a community corrections program;  
 9       (4) is placed on parole; or  
 10       (5) is placed on probation;

11 **whichever occurs last. The department shall ensure that an**  
 12 **offender who is no longer required to register as a sex offender is**  
 13 **notified that the obligation to register has expired.**

14       **(b) A sex offender who is found to be a sexually violent**  
 15 **predator by a court under IC 35-38-1-7.5(b) is required to register**  
 16 **for life.**

17       **(c) A sex offender who is convicted of at least one (1) sex**  
 18 **offense that the sex offender committed:**

- 19       (1) when the person was at least eighteen (18) years of age;  
 20       and  
 21       (2) against a victim who was less than twelve (12) years of age  
 22       at the time of the crime;

23 **is required to register for life.**

24       **(d) A sex offender who is convicted of at least one (1) sex**  
 25 **offense in which the sex offender:**

- 26       (1) proximately caused serious bodily injury or death to the  
 27       victim;  
 28       (2) used force or the threat of force against the victim or a  
 29       member of the victim's family; or  
 30       (3) rendered the victim unconscious or otherwise incapable  
 31       of giving voluntary consent;

32 **is required to register for life.**

33       **(e) A sex offender who is convicted of at least two (2) unrelated**  
 34 **sex offenses is required to register for life.**

35       **Sec. 15. (a) The governor may enter into a compact with one**  
 36 **(1) or more jurisdictions outside Indiana to exchange notifications**  
 37 **concerning the release, transfer, or change of address, employment,**  
 38 **vocation, or enrollment of a sex offender between Indiana and the**  
 39 **other jurisdiction or the other jurisdiction and Indiana.**

40       **(b) The compact must provide for the designation of a state**  
 41 **agency to coordinate the transfer of information.**

42       **(c) If the state agency receives information that a sex offender**  
 43 **has relocated to Indiana to reside, engage in employment or a**  
 44 **vocation, or enroll in school, the state agency shall inform in**  
 45 **writing the local law enforcement authority where the sex offender**  
 46 **is required to register in Indiana of:**

- 47       (1) the sex offender's name, date of relocation, and new  
 48       address; and  
 49       (2) the sex offense or delinquent act committed by the sex  
 50       offender.

1 (d) The state agency shall determine, following a hearing:

2 (1) whether a person convicted of an offense in another  
3 jurisdiction is required to register as a sex offender in  
4 Indiana;

5 (2) whether an out of state sex offender is a sexually violent  
6 predator; and

7 (3) the period in which an out of state sex offender who has  
8 moved to Indiana will be required to register as a sex  
9 offender in Indiana.

10 SECTION 12. IC 11-13-3-4 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) A condition to  
12 remaining on parole is that the parolee not commit a crime during the  
13 period of parole.

14 (b) The parole board may also adopt, under IC 4-22-2, additional  
15 conditions to remaining on parole and require a parolee to satisfy one  
16 (1) or more of these conditions. These conditions must be reasonably  
17 related to the parolee's successful reintegration into the community and  
18 not unduly restrictive of a fundamental right.

19 (c) If a person is released on parole the parolee shall be given a  
20 written statement of the conditions of parole. Signed copies of this  
21 statement shall be:

22 (1) retained by the parolee;

23 (2) forwarded to any person charged with the parolee's  
24 supervision; and

25 (3) placed in the parolee's master file.

26 (d) The parole board may modify parole conditions if the parolee  
27 receives notice of that action and had ten (10) days after receipt of the  
28 notice to express the parolee's views on the proposed modification. This  
29 subsection does not apply to modification of parole conditions after a  
30 revocation proceeding under section 10 of this chapter.

31 (e) As a condition of parole, the parole board may require the  
32 parolee to reside in a particular parole area. In determining a parolee's  
33 residence requirement, the parole board shall:

34 (1) consider:

35 (A) the residence of the parolee prior to the parolee's  
36 incarceration; and

37 (B) the parolee's place of employment; and

38 (2) assign the parolee to reside in the county where the parolee  
39 resided prior to the parolee's incarceration unless assignment on  
40 this basis would be detrimental to the parolee's successful  
41 reintegration into the community.

42 (f) As a condition of parole, the parole board may require the  
43 parolee to:

44 (1) periodically undergo a laboratory chemical test (as defined in  
45 IC 14-15-8-1) or series of tests to detect and confirm the  
46 presence of a controlled substance (as defined in IC 35-48-1-9);  
47 and

48 (2) have the results of any test under this subsection reported to  
49 the parole board by the laboratory.

50 The parolee is responsible for any charges resulting from a test required  
51 under this subsection. However, a person's parole may not be revoked

on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex ~~and violent~~ offender (as defined in ~~IC 5-2-12-4~~) **IC 11-8-8-4**) to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is ~~an~~ a sex offender (as defined in ~~IC 5-2-12-4~~) **IC 11-8-8-4**) to register with a sheriff (or the police chief of a consolidated city) under ~~IC 5-2-12-5~~; **local law enforcement authority under IC 11-8-8**;

(B) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the sex offender obtains written approval from the parole board; and

(C) prohibit a parolee who is ~~an~~ a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5.

If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is ~~an~~ a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

SECTION 13. IC 11-13-6-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.5. (a) This section shall not be construed to limit ~~victim's~~ **victims** rights granted by IC 35-40 or any other law.

(b) As used in this section, "sex offense" refers to a sex offense described in ~~IC 5-2-12-4(1)~~; **IC 11-8-8-4**.

(c) As used in this section, "victim" means a person who has suffered direct harm as a result of a delinquent act that would be a sex offense if the delinquent offender were an adult. The term includes a victim's representative appointed under IC 35-40-13.

(d) Unless a victim has requested in writing not to be notified, the department shall notify the victim involved in the adjudication of a delinquent offender committed to the department for a sex offense of the delinquent offender's:

(1) discharge from the department of correction;

(2) release from the department of correction under any



- temporary release program administered by the department;
- (3) release on parole;
- (4) parole release hearing under this chapter;
- (5) parole violation hearing under this chapter; or
- (6) escape from commitment to the department of correction.

(e) The department shall make the notification required under subsection (d):

- (1) at least forty (40) days before a discharge, release, or hearing occurs; and
- (2) not later than twenty-four (24) hours after the escape of a delinquent offender from commitment to the department of correction.

The department shall supply the information to a victim at the address supplied to the department by the victim. A victim is responsible for supplying the department with any change of address or telephone number of the victim.

(f) The probation officer or caseworker preparing the predispositional report under IC 31-37-17 shall inform the victim before the predispositional report is prepared of the right of the victim to receive notification from the department under subsection (d). The probation department or county office of family and children shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department. The probation department or county office of family and children shall supply the department with the information required by this section as soon as possible but not later than five (5) days after the receipt of the information. A victim is responsible for supplying the department with the correct address and telephone number of the victim.

(g) Notwithstanding IC 11-8-5-2 and IC 4-1-6, a delinquent offender may not have access to the name and address of a victim. Upon the filing of a motion by a person requesting or objecting to the release of victim information or representative information, or both, that is retained by the department, the court shall review in camera the information that is the subject of the motion before ruling on the motion.

(h) The notice required under subsection (d) must specify whether the delinquent offender is being discharged, is being released under a temporary release program administered by the department, is being released on parole, is having a parole release hearing, is having a parole violation hearing, or has escaped. The notice must contain the following information:

- (1) The name of the delinquent offender.
- (2) The date of the delinquent act.
- (3) The date of the adjudication as a delinquent offender.
- (4) The delinquent act of which the delinquent offender was adjudicated.
- (5) The disposition imposed.
- (6) The amount of time for which the delinquent offender was committed to the department.
- (7) The date and location of the interview (if applicable).

SECTION 14. IC 31-19-11-1, AS AMENDED BY P.L.129-2005,

SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Whenever the court has heard the evidence and finds that:

- (1) the adoption requested is in the best interest of the child;
- (2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;
- (3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;
- (4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with IC 31-19-5;
- (5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;
- (6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:
  - (A) IC 31-19-6 indicating whether a record of a paternity determination; or
  - (B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;
- has been filed in relation to the child;
- (7) proper consent, if consent is necessary, to the adoption has been given;
- (8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c) or (d); and
- (9) the person, licensed child placing agency, or county office of family and children that has placed the child for adoption has provided the documents and other information required under IC 31-19-17 to the prospective adoptive parents;

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the department's affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

- (1) Murder (IC 35-42-1-1).
- (2) Causing suicide (IC 35-42-1-2).
- (3) Assisting suicide (IC 35-42-1-2.5).
- (4) Voluntary manslaughter (IC 35-42-1-3).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Battery as a felony (IC 35-42-2-1).
- (7) Aggravated battery (IC 35-42-2-1.5).
- (8) Kidnapping (IC 35-42-3-2).
- (9) Criminal confinement (IC 35-42-3-3).

- (10) A felony sex offense under IC 35-42-4.
- (11) Carjacking (IC 35-42-5-2).
- (12) Arson (IC 35-43-1-1).
- (13) Incest (IC 35-46-1-3).
- (14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).
- (15) Child selling (IC 35-46-1-4(d)).
- (16) A felony involving a weapon under IC 35-47 or IC 35-47.5.
- (17) A felony relating to controlled substances under IC 35-48-4.
- (18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.
- (19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), (11), (12), (16), or (17), or its equivalent under subdivision (19), if the offense was not committed within the immediately preceding five (5) year period.

(d) A court may not grant an adoption if the petitioner is ~~an~~ **a sex offender** (as defined in ~~IC 5-2-12-4~~; **IC 11-8-8-4**).

SECTION 15. IC 31-37-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

(1) Order supervision of the child by:

(A) the probation department; or

(B) the county office of family and children.

As a condition of probation under this subdivision, the juvenile court shall after a determination under ~~IC 5-2-12-4~~ **IC 11-8-8-4** require a child who is adjudicated a delinquent child for an act that would be an offense described in ~~IC 5-2-12-4~~ **IC 11-8-8-4** if committed by an adult to register with the ~~sheriff (or the police chief of a consolidated city)~~ **local law enforcement authority** under ~~IC 5-2-12~~ **IC 11-8-8**.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Order the child to surrender the child's driver's license to the court for a specified period of time.

(4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.

(7) Order the child to perform community restitution or service for a specified period of time.

1 (8) Order wardship of the child as provided in section 9 of this  
2 chapter.

3 SECTION 16. IC 31-37-19-9 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) This section  
5 applies if a child is a delinquent child under IC 31-37-1.

6 (b) After a juvenile court makes a determination under  
7 ~~IC 5-2-12-4~~, **IC 11-8-8-4**, the juvenile court may, in addition to an  
8 order under section 6 of this chapter, and if the child:

9 (1) is at least thirteen (13) years of age and less than sixteen (16)  
10 years of age; and

11 (2) committed an act that, if committed by an adult, would be:

12 (A) murder (IC 35-42-1-1);

13 (B) kidnapping (IC 35-42-3-2);

14 (C) rape (IC 35-42-4-1);

15 (D) criminal deviate conduct (IC 35-42-4-2); or

16 (E) robbery (IC 35-42-5-1) if the robbery was committed  
17 while armed with a deadly weapon or if the robbery resulted  
18 in bodily injury or serious bodily injury;

19 order wardship of the child to the department of correction for a fixed  
20 period that is not longer than the date the child becomes eighteen (18)  
21 years of age, subject to IC 11-10-2-10.

22 (c) Notwithstanding IC 11-10-2-5, the department of correction  
23 may not reduce the period ordered under this section (or  
24 IC 31-6-4-15.9(b)(8) before its repeal).

25 SECTION 17. IC 35-38-1-7.5 IS AMENDED TO READ AS  
26 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7.5. (a) As used in this  
27 section, "sexually violent predator" has the meaning set forth in  
28 ~~IC 5-2-12-4.5~~. **IC 11-8-8-5**.

29 (b) This section applies whenever a court sentences a person for a  
30 sex offense listed in ~~IC 5-2-12-4(a)(1) through IC 5-2-12-4(a)(10)~~  
31 **IC 11-8-8-4** for which the person is required to register with the sheriff  
32 ~~(or the police chief of a consolidated city)~~ **local law enforcement**  
33 **authority** under ~~IC 5-2-12-5~~. **IC 11-8-8**.

34 (c) At the sentencing hearing, the court shall determine whether the  
35 person is a sexually violent predator. Before making a determination  
36 under this section, the court shall consult with a board of experts  
37 consisting of two (2) board certified psychologists or psychiatrists who  
38 have expertise in criminal behavioral disorders.

39 (d) If the court finds that a person is a sexually violent predator:

40 (1) the person is required to register with the sheriff ~~(or the police~~  
41 ~~chief of a consolidated city)~~ **local law enforcement authority** as  
42 provided in ~~IC 5-2-12-13(b)~~; **IC 11-8-8**; and

43 (2) the court shall send notice of its finding under this subsection  
44 to the ~~criminal justice institute~~. **department of correction**.

45 (e) A person who is found by a court to be a sexually violent  
46 predator under subsection (c) may petition the court to consider whether  
47 the person is no longer a sexually violent predator. The person may file  
48 a petition under this subsection not earlier than ten (10) years after the  
49 sentencing court makes its finding under subsection (c). A person may  
50 file a petition under this subsection not more than one (1) time per year.  
51 If a court finds that the person is no longer a sexually violent predator,

the court shall send notice to the ~~Indiana criminal justice institute~~  
**department of correction** that the person is no longer considered a  
sexually violent predator.

SECTION 18. IC 35-38-2-2.2 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.2. As a condition of  
probation for ~~an~~ a sex offender (as defined in ~~IC 5-2-12-4~~ **IC 11-8-8-4**),  
the court shall:

(1) require the sex offender to register with the ~~sheriff (or the~~  
~~police chief of a consolidated city)~~ **local law enforcement**  
**authority** under ~~IC 5-2-12-5~~, **IC 11-8-8-6**; and

(2) prohibit the sex offender from residing within one thousand  
(1,000) feet of school property (as defined in IC 35-41-1-24.7)  
for the period of probation, unless the sex offender obtains  
written approval from the court.

If the court allows the sex offender to reside within one thousand  
(1,000) feet of school property under subdivision (2), the court shall  
notify each school within one thousand (1,000) feet of the sex  
offender's residence of the order.

SECTION 19. IC 35-38-2-2.4 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.4. As a condition of  
probation, the court may require a sex offender (as defined in  
~~IC 5-2-12-4~~ **IC 11-8-8-4**) to:

(1) participate in a treatment program for sex offenders approved  
by the court; and

(2) avoid contact with any person who is less than sixteen (16)  
years of age unless the probationer:

(A) receives the court's approval; or

(B) successfully completes the treatment program referred  
to in subdivision (1).

SECTION 20. IC 35-43-1-2 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A person who:

(1) recklessly, knowingly, or intentionally damages or defaces  
property of another person without the other person's consent; or

(2) knowingly or intentionally causes another to suffer pecuniary  
loss by deception or by an expression of intention to injure  
another person or to damage the property or to impair the rights  
of another person;

commits criminal mischief, a Class B misdemeanor. However, the  
offense is:

(A) a Class A misdemeanor if:

(i) the pecuniary loss is at least two hundred fifty  
dollars (\$250) but less than two thousand five hundred  
dollars (\$2,500);

(ii) the property damaged was a moving motor vehicle;

(iii) the property damaged ~~or defaced was a copy of the~~  
~~sex and violent offender directory (IC 5-2-6-3)~~

**contained data relating to a person required to**  
**register as a sex offender under IC 11-8-8** and the  
person is not a sex offender or was not required to  
register as a sex offender;

- 1 (iv) the property damaged was a locomotive, a railroad
- 2 car, a train, or equipment of a railroad company being
- 3 operated on a railroad right-of-way;
- 4 (v) the property damaged was a part of any railroad
- 5 signal system, train control system, centralized
- 6 dispatching system, or highway railroad grade crossing
- 7 warning signal on a railroad right-of-way owned,
- 8 leased, or operated by a railroad company;
- 9 (vi) the property damaged was any rail, switch,
- 10 roadbed, viaduct, bridge, trestle, culvert, or
- 11 embankment on a right-of-way owned, leased, or
- 12 operated by a railroad company; or
- 13 (vii) the property damage or defacement was caused by
- 14 paint or other markings; and
- 15 (B) a Class D felony if:
- 16 (i) the pecuniary loss is at least two thousand five
- 17 hundred dollars (\$2,500);
- 18 (ii) the damage causes a substantial interruption or
- 19 impairment of utility service rendered to the public;
- 20 (iii) the damage is to a public record;
- 21 (iv) the property damaged or defaced was a copy of the
- 22 ~~sex and violent offender directory (IC 5-2-6-3)~~
- 23 **contained data relating to a person required to**
- 24 **register as a sex offender under IC 11-8-8** and the
- 25 person is a sex offender or was required to register as
- 26 a sex offender;
- 27 (v) the damage causes substantial interruption or
- 28 impairment of work conducted in a scientific research
- 29 facility;
- 30 (vi) the damage is to a law enforcement animal (as
- 31 defined in IC 35-46-3-4.5); or
- 32 (vii) the damage causes substantial interruption or
- 33 impairment of work conducted in a food processing
- 34 facility.
- 35 (b) A person who recklessly, knowingly, or intentionally damages:
- 36 (1) a structure used for religious worship;
- 37 (2) a school or community center;
- 38 (3) the grounds:
- 39 (A) adjacent to; and
- 40 (B) owned or rented in common with;
- 41 a structure or facility identified in subdivision (1) or (2); or
- 42 (4) personal property contained in a structure or located at a
- 43 facility identified in subdivision (1) or (2);
- 44 without the consent of the owner, possessor, or occupant of the property
- 45 that is damaged, commits institutional criminal mischief, a Class A
- 46 misdemeanor. However, the offense is a Class D felony if the pecuniary
- 47 loss is at least two hundred fifty dollars (\$250) but less than two
- 48 thousand five hundred dollars (\$2,500), and a Class C felony if the
- 49 pecuniary loss is at least two thousand five hundred dollars (\$2,500).
- 50 (c) If a person is convicted of an offense under this section that
- 51 involves the use of graffiti, the court may, in addition to any other

penalty, order that the person's operator's license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.

(d) The court may rescind an order for suspension or invalidation under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that:

(1) the person has removed or painted over the graffiti or has made other suitable restitution; and

(2) the person who owns the property damaged or defaced by the criminal mischief or institutional criminal mischief is satisfied with the removal, painting, or other restitution performed by the person.

SECTION 21. IC 35-50-2-2, AS AMENDED BY P.L.213-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.7:

(1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

(C) sexual battery (IC 35-42-4-8) with a deadly weapon;

(D) kidnapping (IC 35-42-3-2);

(E) confinement (IC 35-42-3-3) with a deadly weapon;

(F) rape (IC 35-42-4-1) as a Class A felony;

(G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;

(H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;

(I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;

(J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;

(K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;

(L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;

(M) escape (IC 35-44-3-5) with a deadly weapon;

(N) rioting (IC 35-45-1-2) with a deadly weapon;

(O) dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

(P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5;

(R) an offense under IC 9-30-5-5(b) (operating a vehicle while intoxicated causing death); or

(S) aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of ~~an~~ a sex offender's (as defined in ~~IC 5-2-12-4~~ **IC 11-8-8-4**) sentence that is suspendible under subsection (b), the court shall place the sex offender on probation under IC 35-38-2 for not more than ten (10) years.



(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended.

SECTION 22. IC 35-50-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Except as provided in subsection (d), when a person imprisoned for a felony completes ~~his~~ **the person's** fixed term of imprisonment, less the credit time ~~he has~~ earned with respect to that term, ~~he~~ **the person** shall be:

(1) released on parole for not more than twenty-four (24) months, as determined by the parole board;

(2) discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or

(3) released to the committing court if ~~his~~ **the** sentence included a period of probation.

(b) Except as provided in subsection (d), a person released on parole remains on parole from the date of ~~his~~ release until ~~his~~ **the** fixed term expires, unless ~~his~~ **the person's** parole is revoked or ~~he~~ **the person** is discharged from that term by the parole board. In any event, if ~~his~~ **the person's** parole is not revoked, the parole board shall discharge ~~him~~ **the person** after the period set under subsection (a) or the expiration of the person's fixed term, whichever is shorter.

(c) A person whose parole is revoked shall be imprisoned for the remainder of ~~his~~ **the person's** fixed term. However, ~~he~~ **the person** shall again be released on parole when ~~he~~ **the person** completes that remainder, less the credit time ~~he~~ **the person** has earned since the revocation. The parole board may reinstate ~~him~~ **the person** on parole at any time after the revocation.

(d) When ~~an~~ **a** sex offender (as defined in ~~IC 5-2-12-4~~) **IC 11-8-8-4**) completes the offender's fixed term of imprisonment, less credit time earned with respect to that term, the offender shall be placed on parole for not more than ten (10) years.

SECTION 23. IC 35-50-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time he has earned for any of the following:

(1) A violation of one (1) or more rules of the department of correction.

(2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.

(3) A violation of one (1) or more rules or conditions of a community transition program.

(4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.

(5) If the person is a sex offender (as defined in IC 11-8-8-4) and refuses to register before being released from the department as required under IC 11-8-8-6.

(6) If the person is a sex offender (as defined in IC 11-8-8-4) and refuses to participate in a sex offender treatment program specifically offered to the sex offender by the department of correction while the person is serving a period of incarceration with the department of correction.

However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, he may also be reassigned to Class II or Class III.

(b) Before a person may be deprived of earned credit time, the person must be granted a hearing to determine his guilt or innocence and, if found guilty, whether deprivation of earned credit time is an appropriate disciplinary action for the violation. In connection with the hearing, the person is entitled to the procedural safeguards listed in section 4(c) of this chapter. The person may waive his right to the hearing.

(c) Any part of the credit time of which a person is deprived under this section may be restored.

SECTION 24. IC 36-2-13-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain a **Indiana** sex offender web site, known as the Indiana ~~sheriffs~~ sex offender registry, to inform the general public about the identity, location, and appearance of every sex offender residing within Indiana. The web site must provide information regarding each sex offender, organized by county of residence. The web site shall be updated at least ~~every seven (7) days~~ **daily**.

(b) The **Indiana** sex offender web site must include the following information:

(1) A recent photograph of every sex offender who has registered with a sheriff after the effective date of this chapter.

(2) The home address of every sex offender.

(3) The information required to be included in the Indiana sex offender ~~directory registry~~ **registry** ~~(IC 5-2-12-6)~~ **under IC 11-8-8-7**.

(c) Every time a sex offender ~~submits a new registration form to the sheriff registers~~, but at least once per year, the sheriff shall photograph the sex offender. The sheriff shall place this photograph on the **Indiana** sex offender web site.

(d) The photograph of a sex offender described in subsection (c) must meet the following requirements:

(1) The photograph must be full face, front view, with a plain white or off-white background.

(2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.

(3) The photograph must be in color.

(4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or

- 1 hairline.
- 2 (5) If the offender normally and consistently wears prescription
- 3 glasses, a hearing device, wig, or a similar article, the photograph
- 4 must show the offender wearing those items. A photograph may
- 5 not include dark glasses or nonprescription glasses with tinted
- 6 lenses unless the offender can provide a medical certificate
- 7 demonstrating that tinted lenses are required for medical reasons.
- 8 (6) The photograph must have sufficient resolution to permit the
- 9 offender to be easily identified by a person accessing the
- 10 **Indiana** sex offender web site.
- 11 (e) The **Indiana** sex offender web site may be funded from:
- 12 (1) the jail commissary fund (IC 36-8-10-21);
- 13 (2) a grant from the criminal justice institute; and
- 14 (3) any other source, subject to the approval of the county fiscal
- 15 body.
- 16 SECTION 25. THE FOLLOWING ARE REPEALED
- 17 [EFFECTIVE JULY 1, 2006]: IC 5-2-6-3.5; IC 5-2-12.
- 18 SECTION 26. [EFFECTIVE JULY 1, 2006] **IC 11-8-8-13, as**
- 19 **added by this act, and IC 35-43-1-2, as amended by this act, apply**
- 20 **only to crimes committed after June 30, 2006.**
- 21 SECTION 27. An emergency is declared for this act.
- (Reference is to SB 12 as introduced.)

**and when so amended that said bill be reassigned to the Senate Committee on Corrections, Criminal, and Civil Matters.**

---

GARTON, Chairperson